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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,647	03/03/2005	Franz G. Bucher	HRG-PT020 (G) 5453pt/us)	5807
3624	7590	02/08/2008	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			SORKIN, DAVID L.	
			ART UNIT	PAPER NUMBER
			1797	
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			02/08/2008 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/526,647

**Applicant(s)**

BUCHER, FRANZ G.

**Examiner**

David L. Sorkin

**Art Unit**

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 6, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hisanaga et al. (US 4,976,547). Regarding claim 1, Hisanaga ('547) discloses a device comprising a lid (the structural element in which 12 and 14 are defined). While it is understood that no vessel is required by the claims, the lid "can be" hermetically sealed to a vessel. For example, a gasket for sealing is shown in Fig. 1, but one could seal the lid to a vessel in a variety of ways. The device further comprises a stirring element (22) provided in the lid and being connected to a coupling piece (36). The stirring element is provided with cutting and/or crushing elements (24) situated directly adjacent to cutting edges (18) on a retainer sleeve. The stirring element a hollow cylinder provided with a central sealing cap (see Fig. 1). Regarding claim 4, the retainer sleeve is provided as an auxiliary element that has an inner opening and that can be pushed on or removed (see Fig. 1). Claim 6 merely discusses a vessel which is not part of the claimed structure. Regarding claim 7, "the manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself" *In re Casey*, 152 USPQ 235 (CCPA 1967). Regarding claim 10, drive axle 36 is in the lid. All materials conduct heat.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547) in view of McGill (US 6,338,569). The device of Hisanaga ('547) was discussed above. A central sealing cap which is a membrane is not disclosed. McGill ('569) teaches providing a central sealing cap which is a membrane that can be pierced (see col. 4, lines 44-52). It would have been obvious to one of ordinary skill in the art to have provided a central sealing cap which is a membrane that can be pierced as taught by McGill ('569) to seal a vessel during transit (see col. 4, lines 44-52).
5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547). The device of Hisanaga ('547) was discussed above. The cutting and/or crushing elements include coarse cutting blades and crushers (24) that are situated directly adjacent to the cutting blades which are formed by projections and grooves (see Figs. 1-3). It would have been obvious to one of ordinary skill in the art to have made the elements of well known materials such as plastic or metal, selecting the material based upon cost and strength considerations.
6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547) in view of McGill (US 6,338,569). The device of Hisanaga ('547) was discussed above. The lid is not expressly disclosed to comprise a screw or snap

closure. McGill ('569) teaches providing a lid with a snap closure (see col. 4, lines 1-13). It would have been obvious to one of ordinary skill in the art to have provided the lid of Hisanaga ('547) with a snap closure because McGill ('569) explains that a snap closure is an alternative to other closures (see col. 4, lines 1-13).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547). The device of Hisanaga ('547) was discussed above. Figs. 1 and 11 would have suggested a rubber sealing ring to one of ordinary skill in the art.

8. Claims 9, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547) in view of Price (US 3,060,702). The device of Hisanaga ('547) was discussed above. An inner six-point coupling ring is not disclosed. Price ('702) teaches an inner six point coupling ring (see col. 4, lines 5-20). It would have been obvious to one of ordinary skill in the art to have provided the device of Hisanaga ('547) with an inner six-point coupling ring as taught by Price ('702) to facilitate mechanical coupling (see col. 4, lines 5-20). Price ('702) also teaches a membrane in the lid which can be pierced or broken (see col. 5, lines 31-40).

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisanaga et al. (US 4,976,547) in view of Verkerk (US 6,916,114). The device of Hisanaga ('547) was discussed above. Electrical lines or wave guides are not routed through the lid. Verkerk ('114) discloses routing electrical lines or waveguides through a lid (see col. 20, lines 54-60 and col. 21, line 40 to col. 22 line 24). It would have been obvious to one of ordinary skill in the art to have routed electrical lines or waveguides through the lid as taught by Verkerk ('114) to heat or spectroscopically study a

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compound in a vessel covered by the lid (see col. 20, lines 54-60 and col. 21, line 40 to col. 22 line 24).

### ***Response to Arguments***

10. Previously (after the preliminary amendment), claim 1 required a device for mixing in a vessel which was not part of the claimed device. The claim further discussed that the vessel which was not part of the claimed device had a lid. As currently amended, it is still clear that the vessel is not part of the claimed device. However, applicant has amended claim 1 to require the lid and other elements are elements of the claimed device, rather than elements of the vessel which is not part of the claimed device.

11. Applicant does not point out any particular element or arrangement of elements recited in the independent claim which Hisanaga ('547) fails to disclose. Applicant basically just repeats the claim. On the other hand, applicant makes some valid points concern newly positively recited elements of the dependent claims. However, these issues are moot due to the new grounds for rejection.

### ***Conclusion***

12. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 7:30-4:00 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/David L. Sorkin/

David L. Sorkin  
Primary Examiner  
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DLS